



U.S. Department of Justice

United States Attorney  
Southern District of New York

Defendant's request to maintain ECF No. 14 under seal as accessible only to the selected is GRANTED.

The Clerk of Court is directed to close ECF No. 13.

SO ORDERED

12/21/2020

BY ECF

Honorable Sarah L. Cave  
United States Magistrate Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

  
SARAH L. CAVE  
United States Magistrate Judge

Re: *Dov v. Bureau of Prisons*, 20 Civ. 9370 (SLC)

Dear Judge Cave:

This Office represents the Government in the above-referenced *habeas* matter. The Government writes respectfully to request permission to file under seal the petitioner's medical records from the Bureau of Prisons. Consistent with Section 1.G of this Court's Individual Rules, these documents will be filed under seal on ECF and electronically related to this letter motion.

The Government respectfully submits that sealing is appropriate notwithstanding the presumption of access discussed by the Second Circuit in *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006), in light of the privacy interests of individuals in their medical records. *See, e.g., Barnwell v. FCI Danbury*, No. 3:10-cv-01301 (DJS), 2011 WL 5330215, at \*5 (D. Conn. Nov. 3, 2011) (noting a rebuttable presumption of openness of court filings, but granting motion to seal in light of federal law's treatment of such records as confidential pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. L. 104-191 (1996)). Courts in this District have permitted the sealing of medical records, even if specific details relating to the individual's health appear on the record. *See, e.g., United States v. Needham*, 460 F. Supp. 3d 323, 325 n.1 (S.D.N.Y. 2020); *United States v. Estevez*, No. 18-cr-669 (JPO), 2020 WL 1911207, at \*1 (S.D.N.Y. Apr. 20, 2020); *United States v. Ebberts*, 432 F. Supp. 3d 421, 423 n.1 (S.D.N.Y. 2020) (noting defendant's waiver through "extensively citing to his medical records and medical history in his own motion, in correspondence with the Court, and in open Court during oral argument on his motion").

I thank the Court for its consideration of this request.

Respectfully submitted,

AUDREY STRAUSS

Acting United States Attorney for the  
Southern District of New York

By: s/ Alexander J. Hogan  
ALEXANDER J. HOGAN  
Assistant United States Attorney  
86 Chambers Street, 3rd floor  
New York, New York 10007  
Telephone: (212) 637-2799  
Facsimile: (212) 637-2786  
E-mail: alexander.hogan@usdoj.gov